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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,817	10/30/2003	Shinobu Tanaka	Q77969	7177

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EXAMINER

AMAYA, CARLOS DAVID

ART UNIT PAPER NUMBER

2836

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/695,817	Applicant(s) TANAKA, SHINOBU	
	Examiner Carlos Amaya	Art Unit 2836	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/5/04 & 10/30/03</u> & <u>11/23/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informality: Reference character 31 in Figure 3 is not mentioned in the specifications.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1- 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith (US Patent 5,349,329).

With respect to claim 1 Smith discloses an unqualified person driving prevention apparatus for a vehicle, comprising: a qualified person marker (column 5 lines 49-50, transmitter 12) held by a driver having driving qualification; a marker detector provided in the vehicle (column 5 lines 50-52, receiver 14, see also the abstract lines 2-3) to detect the qualified person marker; and control unit (comprising of signal loss timer 18 and detector circuit 30) for continuously monitoring an output from the marker detector and taking a predetermined measure to ensure safety when a state occurs in which the qualified person marker is not detected (Column 3 lines 44-54, Column 6 lines 1-6, 20-25).

With respect to claim 2 Smith discloses the unqualified person driving prevention apparatus for a vehicle as claimed in claim 1, wherein the measure is a warning for appealing to the sense of sight or the sense of hearing of the driver (Column 6 lines 1-6).

With respect to claim 3 Smith discloses the unqualified person driving prevention apparatus for a vehicle as claimed in claim 1, wherein the measure is a driving stop of the vehicle (Column 3 lines 13-16, Column 6 lines 20-25).

With respect to claim 4 Smith discloses the unqualified person driving prevention apparatus for a vehicle as claimed in claim 1, wherein the measure comprises a warning for appealing to the sense of hearing (Column 6 lines 1-6) of the driver and a driving stop of the vehicle (Column 3 lines 13-16, Column 6 lines 20-25) performed after the warning. Since applicant has used the open-ended term "comprising", the order in which the event occurs does not add patentable weight to the claim.

With respect to claim 5 Smith discloses the unqualified person driving prevention apparatus for a vehicle as claimed in claim 1, wherein the measure is released when the marker detector again detects the qualified person marker (Column 9 lines 30-37, Column 12 lines 21-25). Once the transmitter is out of range the switch element (control unit) is change to the inactive state. It is understood that if transmitter is detected again the switch element is turn to the active state.

With respect to claim 6 Smith discloses the unqualified person driving prevention apparatus for a vehicle as claimed in claim 1, wherein the control unit takes the measure when a state occurs in which the qualified person marker is not detected for a

predetermined time period (column 3 lines 54-57, Column 5 lines 42-49, Column 6 lines 50-53).

4. Claims 1, 2 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Thorpe (UK GB 2,395,331 A).

With respect to claim 1 Thorpe discloses an unqualified person driving prevention apparatus for a vehicle, comprising: a qualified person marker (tag 104a) held by a driver having driving qualification; a marker detector (tag detector 106) provided in the vehicle to detect the qualified person marker; and a control unit (comprises of control unit 110 and 112) for continuously monitoring an output from the marker detector and taking a predetermined measure to ensure safety when a state occurs in which the qualified person marker is not detected (Page 4 lines 1-6, lines 14-18 and Page 12 lines 19-20).

With respect to claim 2 Thorpe discloses the unqualified person driving prevention apparatus for a vehicle as claimed in claim 1, wherein the measure is a warning for appealing to the sense of sight or the sense of hearing of the driver (Page 5 lines 22-24, Page 12 lines 19-22).

With respect to claim 7 Thorpe discloses the unqualified person driving prevention apparatus for vehicle as claimed in claim 1, further comprising a driver detector (seat pressure pad 120, Page 10 lines 24-26) for detecting the presence or absence of a driver riding on the vehicle, wherein the control unit takes the measure when the qualified person marker is not detected by the marker detector and the driver is detected by the driver detector (Page 10 lines 27-30, Page 11 lines 1-6).

5. Claims 1, 3, and 5-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Dortenzio (US Patent 5,459,448).

With respect to claim 1 Dortenzio discloses an unqualified person driving prevention apparatus for a vehicle, comprising: a qualified person marker (transmitter 101) held by a driver having driving qualification; a marker detector (receiver 201) provided in the vehicle to detect the qualified person marker; and control unit (central unit interface 202) for continuously monitoring an output from the marker detector (Column 4 lines 66-67) and taking a predetermined measure to ensure safety when a state occurs in which the qualified person marker is not detected (Column 4 lines 43-45)

With respect to claim 3 Dortenzio discloses the unqualified person driving prevention apparatus for a vehicle as claimed in claim 1, wherein the measure is a driving stop of the vehicle (Column 4 lines 43-46).

With respect to claim 5 Dortenzio discloses the unqualified person driving prevention apparatus for a vehicle as claimed in claim 1, wherein the measure is released when the marker detector again detects the qualified person marker (Column 4 lines 35-46). If transmitter is out of range (not detected) the electrical systems of vehicle are disabled. If the transmitter is detected again, the automotive electrical systems are allowed to function properly (the measure is released).

With respect to claim 6 Dortenzio discloses the unqualified person driving prevention apparatus for a vehicle as claimed in claim 1, wherein the control unit takes the measure when a state occurs in which the qualified person marker is not detected for a predetermined time period (Column 4 lines 11-16, Column 4 lines 56-60).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 8, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dortenzio (US 5,459,448).

With respect to claim 8 Dortenzio discloses the marker (transmitter 101) carried by the driver, a marker detector (receiver 201) and a control unit (central unit interface 202) installed in the vehicle for monitoring an output from the marker detector and taking a predetermined measure to ensure safety when a state occurs in which the qualified person marker is not detected. However, Dortenzio does not disclose expressly the qualified person marker is provided in a shoe, and that the marker detector is provided in the floor of the vehicle's cab.

Dortenzio, however, discloses that "the portable unit can have various shapes and sizes to best take advantage of concealability and ease of transport" (Column 5 lines 9-11). Dortenzio does not specify where the receiver is placed in the vehicle. From Dortenzio's teachings it is understood that the receiver could be placed anywhere in the vehicle, as long as it is capable of receiving the signals from transmitter Dortenzio (see abstract lines 5-8).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art, to insert Dortenzio's transmitter in a shoe (or other personal item) worn by the driver and place the receiver in the vehicle's cab in view of the teachings of Dortenzio.

The suggestion or motivation for doing so would have been to have the transmitter attach to a personal item of the driver, particularly the shoe of the driver, for ease of transport (Dortenzio column 5 line 10-11) also to reduce the possibilities of losing the transmitter, and to place the receiver near the driver, namely the cab.

With respect to claim 10 Dortenzio discloses the prevention apparatus of claim 8, wherein the measure is a driving stop of the vehicle Dortenzio (Column 4 lines 43-46).

8. Claims 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dortenzio (US 5,459,448) in view of Smith (US 5,349,329).

With respect to claim 9 Dortenzio discloses the transmitter, receiver and control unit of claim 8, however, does not disclose that the measure is a warning for appealing to the sense of hearing. Smith discloses an apparatus with a marker (transmitter 12) and a marker detector (receiver 14) wherein a measure, which is a warning for appealing to the sense of hearing, is provided (Column 6 lines 1-6).

It would have been obvious to those skilled in the art at the time the invention was made to provide a measure which is a warning as taught by Smith to provide a clear indication of an event which would cause disablement of the vehicle as alarms or indicator signals are known devices recognized for suitability for its intended purpose.

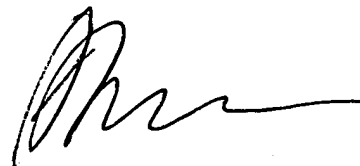
With respect to claim 11 Dortenzio in view of Smith discloses the prevention apparatus of claim 8, however, does not disclose that the measure comprises a warning for appealing to the sense of hearing, Smith discloses that the warning appeals to the sense of hearing of the driver (Column 6 lines 1-6) Dortenzio, does however, teaches that a driving stop of the vehicle (Column 4 lines 43-46) is performed after the warning.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Sircus who can be reached on (571) 272-2058. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CA



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PRIMARY EXAMINER